

Service Date: December 28, 1984

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER of the Application                    ) UTILITY DIVISION  
by MONTANA POWER COMPANY for                    ) DOCKET NO. 83.9.67  
authority to establish increased rates    ) ORDER NO. 5051h  
for electric service in the State of        )  
Montana.    )

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Order On Conoco, Inc. and Champion International Corporation's  
Motion For Reconsideration and Extension of Time

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IN THE MATTER of the Application                    ) UTILITY DIVISION  
by MONTANA POWER COMPANY for                    ) DOCKET NO. 83.9.67  
authority to establish increased rates    ) INTERIM ORDER NO. 5051h  
for electric service in the State of        )  
Montana.    )

APPEARANCES

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FOR THE COMMISSION:

Eileen E. Shore, Staff Counsel  
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BEFORE:

THOMAS J. SCHNEIDER, Hearing Examiner  
JOHN B. DRISCOLL, Commissioner  
HOWARD L. ELLIS, Commissioner  
CLYDE JARVIS, Commissioner  
DANNY OBERG, Commissioner

#### Background

1. On August 3, 1984, the Commission issued Order No. 5051d. This order set forth the cost of service approach that MPC was to use to compute reconciled class revenue requirements. In the order, the Commission directed the Montana Power Company to file rate schedules which reflect an increase in annual electric utility revenues of \$4,106,915. Rates were to increase by a uniform percent for all but the irrigator class.

2. When the Commission learned that the final order would result in a rebate, it directed the Montana Power Company to defer any rate changes until the present order was issued.

3. On August 21, 1984, the Commission received the Montana Power Company's Motion for Reconsideration of Order Nos. 5051c and 5051d.

4. On September 21, 1984, the Commission issued Order No. 5051f which addressed MPC's Motion for Reconsideration on the cost of service portion of the previous order and rate design.

5. On October 9, 1984, the Commission received the Montana Power

Company's and District XI Human Resource Council's Motions for Reconsideration of the rate design portion of Order No. 5051f.

6. On October 23, 1984, the Commission issued Order No. 5051(g), on Motions for Reconsideration of Order No. 5051f rate design issues.

7. On November 2, 1984, the Commission received the Champion International Corporation and Conoco, Inc. (CICO) Motion for Reconsideration of Order No. 5051g.

8. On November 21, 1984, the Commission issued its Notice of Commission Action. This notice directed CICO to enumerate and quantify the concerns raised in its Motion.

9. The Commission subsequently granted CICO two extensions of time to comply with the Notice of Commission action.

10. On December 14, 1984, the Commission received MPC's workpapers and statement in support of CICO's Motion for Reconsideration of Order No.5051(g) .

#### Order No. 5051g Issues for Reconsideration

11. CICO's November 2, 1984 motion cited two general bases for its motion: (1) questionable billing determinants may have been used and (2) the Anaconda adjustment may be based upon incomplete information.

12. In its December 17, 1984, enumeration of corrections CICO (and MPC) refined their two general bases for the motion to include: (1) "Commission findings in regard to a specific factor were applied to the most obvious location in the computation procedure, but less obvious locations that included the factor remained uncorrected.", and (2) "Earlier errors in calculating procedures had occasionally completely obscured an underlying error; it was not until the earlier problems were corrected that the underlying problems became visible.

13. It must be noted that CICO's Motion for Reconsideration is

directed to an Order that is addressed to previous motions for reconsideration. Further, CICO's Motion deals primarily with what it claims may be mathematical errors contained in compliance papers designed to effect implementation of rates that would effect the Commission's Order No. 5051g. Such errors, if found are usually worked out informally prior to approval of tariffs. The Commission's rules contemplate but one round of motions for reconsideration of any particular order. Thus, CICO's Motion is technically deficient and does not comply with established procedures.

14. Despite the irregularities of CICO's Motion, by its action of November 21, 1984, the Commission decided to hear CICO's arguments. At the same time, the Commission carefully limited the subjects it would consider to proven mathematical errors in the compliance papers. Such a limitation was deemed necessary in order to prevent any attempt to reach back to prior orders for which the time had run for motions for reconsideration. This limitation is especially important in view of the fact that petitions for judicial review had been filed by CICO and others on several of those orders prior to CICO's Motion for Reconsideration. Under the Supreme Court's decision in *Montana Consumer Counsel v. Public Service Commission*, 168 Mont. 177, 541 P.2d 769 (1975) the Commission loses jurisdiction to change an order once it has become the subject of judicial review. In sum, the Commission allowed CICO to present for consideration a list of mathematical errors contained in compliance papers. It was, and is, the Commission's position that consideration of issues contained in the orders themselves cannot be considered.

15. Before consideration of the merits of CICO's Motion it should also be noted that in its November 21 Notice, the Commission specified the kind of information CICO was obligated to provide:

CICO is hereby directed to precisely enumerate the mathematical corrections and related concerns that it wants this Commission to reconsider. Each separate correction must be

documented with a detailed narrative of why the correction is necessary, including the assumption CICO believes underlie the existing and proposed data. The narrative must also include detailed analysis of the overall, class specific, and industrial customer specific impacts of each and every correction. Any synergistic affects must also be detailed in the narrative.

As will be discussed, these requirements were largely ignored in CICO's December 21, 1984 filing.

16. In view of the previous discussion, the Commission's decision is guided by the following criteria: If a claimed error could have been discovered during the course of normal proceedings, including by motions for reconsideration of particular previous orders, that claimed error will not be considered here. If the error could have been discovered only upon MPC's filing of compliance papers, the claimed error will be considered. In apparent anticipation of this limitation, CICO's arguments are couched in terms of compliance paper errors. Despite such verbiage, the Commission finds that some claims reach back to orders presently subject to judicial review.

17. Anaconda Billing Determinants. In this issue, CICO states that the normalized billing determinants for Anaconda are in error and should be changed to reflect three points of delivery: Specifically, CICO claims normalized demand and consumption results are mutually inconsistent.

18. On this issue, CICO's Motion for Reconsideration reaches beyond the issue of "questionable billing determinants as contained in MPC's compliance papers". Instead, CICO's Motion for Reconsideration of Order No. 5051g reaches all the way back to cost of service issues raised in the normal course of the hearing process and decided in Order No. 5051d issued August 3, 1984.

19. Apparently MPC's Cost of Service (COS) study and/or its rate design (RD) analyses, contemplate only one point of delivery (e. g., Butte) for service to Anaconda (CICO's enumeration of

corrections refers to "demand values", leaving to the reader the decision of whether the issue is COS and/or RD-related. ) This fact reasonably could have been discovered by CICO and presented to the Commission during discovery, cross-examination and CICO's testimony. It is just such issues that are raised in the course of hearings on cost of service and rate design. Although couched in terms of "billing determinants", and "demand values" CICO's claims on this issue are in fact an attempt to supplement its presentation to the Commission. As previously discussed, the attempt is improper and appears to constitute an attempt to abuse the regular administrative process. Even if the jurisdictional problems previously discussed did not constitute a bar to the Commission's consideration of the claim, the Commission would decline to consider it, since to do so would preclude other parties from addressing the issue through cross-examination and rebuttal testimony.

20. Stauffer Billing Demands. In this issue, CICO requests the Commission to approve billing demands for Stauffer consistent with two--furnace operation. Only consumption figures were corrected in MPC's October 22 filing.

21. Apparently, only consumption data in MPC's RD analyses -- "normalized billing demands" -- was adjusted to reflect two-furnace operation (from a comparison of data in MPC's August 20, 1984 work papers (page 43 of 51) to data in MPC's December 11, 1984 work papers (Attachment I, page 5 of 29) the COS data was apparently normalized).

22. This claim is valid. The Commission, in Order No. 5051d, Findings 155 and 156, found that rates should be based on a two-furnace operation. Because the compliance papers failed to fully reflect that decision, MPC should make the necessary adjustments to implement that decision.

23. Golden Sunlight Billing Determinants. In this issue, CICO requests the Commission to change the billing demand values from

coincident demand to billing demand values.

24. The issue here relates to computations in the compliance papers, and is, therefore, an appropriate issue for the Commission's consideration at this stage of the proceedings.

25. The Commission finds that if coincident peak billing determinants were inadvertently used with rate design analyses, a correction is in order.

26. Loss Adjusted Anaconda Demands. In this issue, CICO states that Anaconda's contract demand and billing demand is unadjusted for losses. In turn, this unadjusted data is added to loss-adjusted industrial coincident demands. CICO requests the Commission to approve of " . . . calculation procedures incorporating mathematically consistent sets of data."

27. It is evident from CICO's issue description, that this is strictly a computational problem. From MPC's October 21, 1984 work papers (p. 23 of the Marginal Cost tab) it is clear that the "ANCDA DEFCY" and "ACTUAL ANCDA DMD" data are unadjusted for losses. Those loss calculations were recognized as appropriate in Order No. 5051g. Therefore, computations designed to reflect that decision should be contained in compliance papers. To the degree that losses are not fully reflected, MPC should submit computations that reflect that order.

28. The 500 KV Line Loss Adjustment. In this issue, CICO requests the Commission to approve of a ". . .complete and mathematically consistent application of the approved loss factors. " Apparently, only the energy values, and not demand values, were corrected to reflect the removal of the 500 KV line. Consequently, demand loss factors need revision.

29. Like the previous issue, CICO's claim here, in effect, requests that the Commission's decision, contained in Order S051f, Finding of Fact No. 24, be fully reflected in compliance papers



calculations. Such an adjustment is entirely appropriate at this stage of the proceeding, since it could have been discovered only at the time the compliance papers were filed.

30. Anaconda Demand Charge Deficiency Adjustment. The Commission finds necessary the regurgitation of this CICO issue in its entirety:

6. The total class revenue responsibilities should change when corrections impact computation of the Anaconda deficiency charge. See October 22, 1984 work papers, Marginal Cost tab, page 3 of 23 and Operating Revenues tab, page 23 of 36. These work papers calculate the ten-twelfths Anaconda deficiency as \$1,677,297. However, the ten-twelfths Anaconda deficiency of \$1,672,633 used to compute total revenue responsibility in this filing (October 22) is instead the same value shown in the prior (October 8) work papers, Operating Revenues tab page 23 of 35. Montana Power confirms that although the Anaconda deficiency computation has changed, and will change as other computational corrections are incorporated, the deficiency component of the revenue responsibility has been left constant. CICO request that the Commission approve a complete mathematical follow-through of all approved data and computational procedures. This disparity still exists in Attachment I, as may be seen on pages 10 and 25.

31. This claim has several deficiencies. First, it is almost unintelligible, even to experts in the field. Second, it blatantly ignores the Commission's direction that claims be precisely stated; in fact, what we have is a general request for a "mathematical follow-through, " which, translated, seems to mean yet another set of calculations (only generally defined) that would again be subject to dispute, given the vagueness of the request. Most importantly, this claim apparently flows in part from the first claim relating to Anaconda billing determinants. Therefore, for the reasons given in Finding of Fact No. 19, consideration is inappropriate at this stage of the proceedings .

32. Mathematical Treatment of the Anaconda Deficiency Credit. Once

more, CICO has raised a, strictly speaking, COS issue. The issue is repeated, as follows, in its entirety.

The mathematical method for handling the Anaconda deficiency credit to ratepayers and to stockholders was changed between the October 8 and October 22 filings because the earlier procedure was found inappropriate. CICO noted and Montana Power confirms that the industrial demands still incorrectly include a component associated with the now discarded computation method. Inclusion of this residual component results in a collection of deficiency payments from industrial customers in addition to the full collection of the deficiency from Anaconda. See October 22, work papers, Marginal Cost tab, page 1 of 23. Findings of Fact 54 and 55 of Commission Order No. 5051g do not state that Industrial Contract seasonal demands are to be adjusted to reflect two twelfths of Anaconda's net contract load. FOF 54 and 55 deal with a method by which ten-twelfths of the Anaconda deficiency payment will flow to the benefit of all ratepayers. Inclusion of this residual component increases the Industrial Contract Class revenue responsibility by over \$500,000 (after moderation). This over-collection completely cancels the benefits (about \$325,000) to the Industrial Contract Class that should result from flowing ten-twelfths of the Anaconda deficiency payment back to the ratepayers. Further, the resulting increase in Industrial Contract Class revenue responsibility (over \$500,000) far exceeds the actual two-twelfths of the Anaconda deficiency payment (which equals \$335,459, in the October 22 work papers). Anaconda alone should be responsible for the deficiency payments which will flow in part to ratepayers and in part to stockholders. CICO request that the Commission approve a computation procedure that assures that no class or customer other than Anaconda be assigned responsibility for any portion of the Anaconda deficiency payment.

CICO and MPC discussed other potential discrepancies in the computation procedures. In large part, these apparent discrepancies have disappeared in the attached Montana Power work papers through the correction of a transcription error and use of a consistent level of accuracy throughout the computational chain. CICO are

unsure if minimum billing revenues (if any) are properly reflected in the revenue computations. However, Commission decisions do not give guidance on this issue. Therefore CICO, without waiving their right to challenge such adjustments in any subsequent proceedings, would agree that the need for expedited correction of obvious mathematical errors and inconsistent applications of Commission findings is more important than trying to make further refinements at this time.

We believe the above, combined with the attached Montana Power work papers, should comply with the Commission's request for a full explanation of the needed changes.

CICO have not had an opportunity to fully review the attached Montana Power work papers. (A fully legible copy was not available until December 12.) In fact, CICO have already noted that the ten-twelfths Anaconda deficiency payment credited against the allowed revenues differs from the computed ten-twelfths Anaconda deficiency payment calculated in this same set of papers. However, the attached work papers represent the best effort possible in the time available.

We do believe that Attachment I provides the Commission with significant information regarding the impact of the errors previously enumerated. If CICO can provide any further data or explanations, we would be pleased to do so. However, we ask the Commission to note that detailed information regarding the attached work papers must, of necessity, come from Montana Power.

33. The Commission understands this lengthy issue to boil down to the inclusion of two-twelfths of the Anaconda deficiency load in the COS study. CICO apparently holds that to include this amount of KW in the COS study results in the overstating of the Anaconda-related deficiency revenue requirement: Anaconda pays the full deficiency payment directly to MPC and by including two-twelfths of the associated KW in the COS study the industrial class pays again (about \$500,000). CICO's preferred solution is to totally remove

Anaconda's deficiency-related KW from the COS study.

34. CICO offers no adequate grounds and the Commission finds no reason to deviate from its decision in Order No. 5051(g): The two-twelfths of Anaconda's net contract load shall remain. The Commission reiterates that based on witness Lewis' testimony one could argue for placing 38 MW, instead of two-twelfths of the net load, into the COS study.

#### CONCLUSION

35. The Commission has altered well established procedures by allowing CICO to make the presentation addressed in this order. That decision was made because the Commission wishes the tariffs resulting from its orders to be as accurate as possible. However, that desire must be balanced against a need, at some point, of having the administrative process come to an end . By its general and often confusing claims, by its failure to comply with the Commission's decisions that computational errors must be precisely enumerated, by its requests that yet new rounds of computations be made even in the absence of precise requests, and by its attempts to reach back to the merits of previous orders, CICO seems to have attempted to push the time for finality beyond its reasonable limits. By this order, the Commission has addressed the errors which have been properly presented. CICO is admonished that failure to comply with Commission directives in the future may result in rejection of all claims. This may become necessary because of the unreasonable burden of considering genuine as well as bogus issues and the need for finality.

#### CONCLUSIONS OF LAW

1. All Findings of Fact are incorporated as Conclusions of Law.
2. The Applicant, Montana Power Company, furnishes electric service to consumers in Montana, and is a "public utility" under the regulatory jurisdiction of the Montana Public Service Commission.

§69-3-101, MCA.

3. The Montana Public Service Commission properly exercises jurisdiction over Montana Power Company's rate and operations. §69-3-102, MCA, and Title 69, Chapter 3, Part 3, MCA.

4. The Montana Public Service Commission has provided adequate public notice of all proceedings, and an opportunity to be heard to all interested parties in this docket. §69-3-303, MCA, §69-3-104, MCA, and Title 2, Chapter 4, MCA.

5. The rates resulting from this order are just, reasonable, and not unjustly discriminatory. §69-3-330, MCA and 1169-3-201, MCA.

6. The Commission is without jurisdiction to consider the merits of issues that are contained in orders under appeal to the district court of this state.

#### ORDER

THE MONTANA PUBLIC SERVICE COMMISSION HEREBY ORDERS:

1. The Montana Power Company shall design class cost revenue responsibility to generate authorized revenues which are consistent with the Findings of Fact entered by the Commission in this Order.

2. MPC shall combine the rate adjustments flowing from this order with those generated by the interim rate increase granted in Docket No. 84.11.71, thereby minimizing the number of rate changes in January of 1985.

3. MPC shall submit detailed work papers reflecting the changes made pursuant to this order. Such work papers must document each class' revenue responsibility -- cost of service -- and each class' final rates that flow from this order.

Additionally, work papers shall provide for a uniform percent

increase of the interim increased revenue requirement out of Docket No. 84.11.71. A final set of tariffs shall be filed reflecting both orders. An original and 15 copies of the tariffs should be filed.

4. Rates reflecting the findings contained in this order and the order issued in Docket No . 84.11.71, shall be effective for service on and after the date on which the Commission staff verifies and approves the Commission's work papers and proposed tariffs .

5. All other motions or objections made in the course of these proceedings which are consistent with the findings, conclusions and decision made herein are granted; those inconsistent are denied.

DONE IN OPEN SESSION at Helena, Montana this 27th day of December, 1984, by a vote of 4 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

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THOMAS J. SCHNEIDER, Chairman

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HOWARD L. ELLIS, Commissioner

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CLYDE JARVIS, Commissioner

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DANNY OBERG, Commissioner

ATTEST:

Trenna Scoffield  
Commission Secretary  
(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.